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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL,CIVIL JURISDICTION

WRIT PETITION NO.1315 OF 2007

M/s.Time Industries & Ors.....Petitioenrs

Versus

Union of India & Ors. ..Respondents

Mr. Shailesh Shah i/b. Zohair & Co., for the petitioner.
Mr. P.S. Jettly with Ms. Nisha Valani for the respondents.

CORAM: F.I. REBELLO &
S.R.SATHE,JJ.
DATED: 16TH AUGUST, 2007

P.C.:

. Draft amendment handed in allowed. Amendment to be carried out within two weeks from today.

2. Rule. Heard forthwith. It is the case of the petitioners that the Appeal preferred by them was dismissed without any opportunity to them. From the record it appears that the notice in fact was addressed to the petitioners herein. It is further the contention of the petitioners that their address had changed and the respondents in fact were aware of the same and had been communicating to the petitioners at said address.

3. The question is whether we should invoke our

extra ordinary jurisdiction. This Court in judgment and order dated 30th July, 2007 in Writ Petition No.1505 of 2007 Chandrakant B.Shah vs. Union of India & Ors., considering the judgment of the Apex Court in A.N.Z. Grindlay's Bank which has held that there is inherent power of procedural review in every Tribunal. The power of procedural review amongst others is for setting aside an exparte order on the petitioner showing sufficient cause to the tribunal.

4. The Respondents have filed an affidavit in reply today. The petitioners have proceeded with the petition by denying the contentions raised in the affidavit.

5. In the light of that in our opinion the appropriate remedy for the petitioners would be to apply for recalling the order dismissing the Appeal for default.

6. If such an application is made within four weeks from today the respondent No.3 after hearing the respondents to consider the same more so considering the contention of the petitioners herein that they had no notice because the notice was served at the old address. In the meantime and to enable the petitioners hereto to apply to the

Tribunal in the matter of waiver of pre-deposit, we grant them eight weeks time for the same. During such period the respondents are directed not to take any steps against the petitioners or proceed against the petitioner in respect of the notice at Exhibit FF. With the above observations petition disposed of.

(S.R.SATHE, J.) **(F.I.REBELLO, J.)**